

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 171

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO PROFESSIONAL LICENSURE; RENAMING THE NEW MEXICO BOARD OF MEDICAL EXAMINERS; CHANGING MEMBERSHIP; PRESCRIBING POWERS AND DUTIES; CHANGING REQUIREMENTS AND PROCEDURES FOR LICENSURE AS PHYSICIANS; PROVIDING FEES; TRANSFERRING FUNCTIONS, PERSONNEL, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES OF THE NEW MEXICO BOARD OF MEDICAL EXAMINERS TO THE NEW MEXICO MEDICAL BOARD; INCREASING CIVIL PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-6-1 NMSA 1978 (being Laws 1989, Chapter 269, Section 1) is amended to read:

"61-6-1. SHORT TITLE--PURPOSE. --

A. Chapter 61, Article 6 NMSA 1978 may be cited as the "Medical Practice Act".

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underscored material = new  
[bracketed material] = del ete

1           B. In the interest of the public health, safety and  
2 welfare and to protect the public from the improper,  
3 unprofessional, incompetent and unlawful practice of medicine,  
4 it is necessary to provide laws and ~~[regulations]~~ rules  
5 controlling the granting and use of the privilege to practice  
6 medicine and to establish a medical board ~~[of medical~~  
7 ~~examiners]~~ to implement and enforce ~~[those]~~ the laws and  
8 ~~[regulations]~~ rules.

9           C. The primary duties and obligations of the  
10 medical board ~~[of medical examiners]~~ are to issue licenses to  
11 qualified physicians, ~~[to register qualified]~~ physician  
12 assistants and anesthesiologist assistants, to discipline  
13 incompetent or unprofessional physicians, ~~[or]~~ physician  
14 assistants or anesthesiologist assistants and to aid in the  
15 rehabilitation of impaired physicians, ~~[and]~~ physician  
16 assistants and anesthesiologist assistants for the purpose of  
17 protecting the public. "

18           Section 2. Section 61-6-2 NMSA 1978 (being Laws 1923,  
19 Chapter 44, Section 1, as amended) is amended to read:

20           "61-6-2. NEW MEXICO MEDICAL BOARD ~~[OF MEDICAL~~  
21 ~~EXAMINERS]~~-- APPOINTMENT-- TERMS-- QUALIFICATIONS. --

22           A. There is created the "New Mexico medical board  
23 ~~[of medical examiners]~~", consisting of ~~[eight]~~ nine members.  
24 The board shall be composed of two public members, one  
25 physician assistant and six reputable physicians of known

1 ability who are graduates of medical colleges or schools in  
 2 good standing [~~as defined in Section 61-6-6 NMSA 1978~~] and who  
 3 have been licensed physicians in and bona fide residents of New  
 4 Mexico for a period of five years immediately preceding the  
 5 date of their appointment. The physician assistant shall have  
 6 been a licensed physician assistant and a resident of New  
 7 Mexico for at least five years immediately preceding the date  
 8 of appointment. Public members of the board shall be residents  
 9 of New Mexico, shall not have been licensed by the board or  
 10 have practiced as physicians and shall have no significant  
 11 financial interest, direct or indirect, in the occupation  
 12 regulated.

13 B. The governor shall appoint the physician members  
 14 from a list of names submitted to [~~him~~] the governor by the New  
 15 Mexico medical society or its authorized governing body or  
 16 council. The list shall contain five names of qualified  
 17 physicians for each physician member to be appointed.  
 18 Physician member vacancies shall be filled in the same manner.

19 C. The governor shall appoint the physician  
 20 assistant member from a list of names submitted to the governor  
 21 by the New Mexico academy of physician assistants or its  
 22 authorized governing body or council. The list shall contain  
 23 five names of qualified physician assistants.

24 [~~C.~~] D. Members shall be appointed to four-year  
 25 terms, staggered [~~terms beginning on January 1, 1992. Three~~

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1 ~~physician members and one public member shall be appointed to~~  
2 ~~two year terms, and three physician members and one public~~  
3 ~~member shall be appointed to four year terms. Thereafter, the~~  
4 ~~members shall be appointed to four year terms] so that not more~~  
5 than three terms expire in a year. All board members shall  
6 hold office until their successors are appointed and qualified.

7 [D. ~~Any~~] E. A board member failing to attend three  
8 consecutive meetings, either regular or special, shall  
9 automatically be removed as a member of the board unless  
10 excused from attendance by the board for good cause shown. "

11 Section 3. Section 61-6-3 NMSA 1978 (being Laws 1989,  
12 Chapter 269, Section 3) is amended to read:

13 "61-6-3. MEETINGS OF THE BOARD-- QUORUM --

14 A. The board shall hold four regular meetings every  
15 fiscal year. [~~Two of those meetings shall be licensing~~  
16 ~~meetings.~~]

17 B. During the second quarter of each year, the  
18 board shall hold its annual meeting during which it shall elect  
19 officers.

20 [~~C. The board shall hold its regular licensing~~  
21 ~~meetings during the second and fourth quarters of each fiscal~~  
22 ~~year at a time and place determined by a quorum or at a time~~  
23 ~~and place determined by the president. The president shall~~  
24 ~~provide written notice to all members of the board.~~

25 ~~D.] C.~~ In addition to the regular meetings, the

1 board may hold special meetings at the call of the president  
 2 after written notice to all members of the board or at the  
 3 written or electronic request of any two members.

4 ~~[E.]~~ D. A majority of the members of the board  
 5 shall constitute a quorum and shall be capable of conducting  
 6 any board business. The vote of a majority of a quorum shall  
 7 prevail, even though the vote may not represent an actual  
 8 majority of all the board members. "

9 Section 4. Section 61-6-4 NMSA 1978 (being Laws 1989,  
 10 Chapter 269, Section 4) is amended to read:

11 "61-6-4. ELECTION--DUTIES OF OFFICERS--REIMBURSEMENT OF  
 12 BOARD MEMBERS.--

13 A. At its annual meeting, the board shall elect a  
 14 ~~[president]~~ chair, a vice ~~[president]~~ chair and a secretary-  
 15 treasurer.

16 B. The ~~[president]~~ chair shall preside over the  
 17 meetings and affairs of the board.

18 C. The vice ~~[president]~~ chair shall perform such  
 19 duties as may be assigned by the ~~[president]~~ chair and shall  
 20 serve as ~~[president]~~ chair due to the absence or incompetence  
 21 of the ~~[president]~~ chair.

22 D. The secretary-treasurer shall:

23 ~~[(1) report to the governor the doings and~~  
 24 ~~proceedings of the board, together with the amounts of all~~  
 25 ~~money received and disbursed by the board by December 1 of each~~

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1 year;

2 ~~(2) with the advice and consent of the board,~~  
3 ~~submit the board budget recommendation to the legislature and~~  
4 ~~the department of finance and administration;~~

5 ~~(3) keep a correct and itemized account of all~~  
6 ~~money received and disbursed and make a report to the board at~~  
7 ~~each meeting;~~

8 ~~(4) issue interim licenses; and]~~

9 (1) review applications for licensure and  
10 interview applicants to determine eligibility for licensure;

11 (2) issue temporary licenses pursuant to  
12 Section 61-6-14 NMSA 1978;

13 (3) serve on committees related to board  
14 activities that require physician participation;

15 (4) serve as a consultant on medical practice  
16 issues when a board action is not required; and

17 (5) perform any other functions assigned by  
18 the board or by the [~~president between meetings~~] chair.

19 E. The secretary-treasurer may be compensated at  
20 the discretion of the board.

21 F. Board members shall receive per diem and mileage  
22 as provided in the Per Diem and Mileage Act and shall receive  
23 no other compensation, perquisite or allowance, except that the  
24 secretary-treasurer may be additionally compensated as provided  
25 in Subsection E of this section and board members may be

1 additionally compensated in accordance with Subsection G of  
2 this section.

3 G. Board members or agents performing interviews of  
4 applicants [~~as required by Sections 61-6-11 and 61-6-13 NMSA~~  
5 ~~1978~~] may be compensated at the board's discretion. "

6 Section 5. Section 61-6-5 NMSA 1978 (being Laws 1973,  
7 Chapter 361, Section 2, as amended) is amended to read:

8 "61-6-5. DUTIES AND POWERS. --The board shall:

9 A. enforce and administer the provisions of the  
10 Medical Practice Act, the Physician Assistant Act, the  
11 Anesthesiologist Assistants Act and the Impaired [~~Physician~~]  
12 Health Care Provider Act;

13 B. adopt, publish and file, in accordance with the  
14 Uniform Licensing Act and the State Rules Act, all rules [~~and~~  
15 ~~regulations~~] for the implementation and enforcement of the  
16 provisions of the Medical Practice Act, the Physician Assistant  
17 Act, the Anesthesiologist Assistants Act and the Impaired  
18 [~~Physician~~] Health Care Provider Act;

19 C. adopt and use a seal;

20 D. administer oaths to all applicants, witnesses  
21 and others appearing before the board, as appropriate;

22 E. take testimony on [~~any~~] matters within the  
23 board's jurisdiction;

24 F. keep an accurate record of all its meetings,  
25 receipts and disbursements;

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1           ~~[G. keep a record of all examinations held,~~  
2 ~~together with the names and addresses of all persons taking the~~  
3 ~~examinations and the examination results, and at the earliest~~  
4 ~~date possible give written examination results to each~~  
5 ~~applicant examined;~~

6           ~~H. certify as passing each applicant who obtains a~~  
7 ~~passing grade indicating successful completion of each subject~~  
8 ~~upon which he is examined;~~

9           ~~F.]~~ G. maintain records in which the name, address  
10 and license number of all licensees shall be recorded, together  
11 with a record of all license renewals, suspensions,  
12 revocations, probations, stipulations, censures, reprimands and  
13 fines;

14           ~~[J.]~~ H. grant, deny, review, suspend and revoke  
15 licenses to practice medicine and censure, reprimand, fine and  
16 place on probation and stipulation [~~physicians~~] licensees and  
17 applicants in accordance with the Uniform Licensing Act for any  
18 cause stated in the Medical Practice Act and the Impaired  
19 Health Care Provider Act;

20           ~~[K.]~~ I. hire staff and administrators as necessary  
21 to carry out the provisions of the Medical Practice Act;

22           ~~[L.]~~ J. have the authority to hire or contract with  
23 investigators to investigate possible violations of the Medical  
24 Practice Act;

25           ~~[M.]~~ K. have the authority to hire a competent

1 attorney to give advice and counsel in regard to any matter  
 2 connected with the duties of the board, to represent the board  
 3 in any legal proceedings and to aid in the enforcement of the  
 4 laws in relation to the medical profession and to fix the  
 5 compensation to be paid to such attorney; provided, however,  
 6 that such attorney shall be compensated from the funds of the  
 7 board; [~~including those provided for in Section 61-6-28 NMSA~~  
 8 ~~1978;~~

9 ~~N.]~~ L. establish continuing medical education  
 10 requirements for licensed physicians and continuing education  
 11 requirements for physician assistants; [~~and]~~

12 [~~0.]~~ M. establish committees as it deems necessary  
 13 for carrying on its business; and

14 N. hire or contract with a licensed physician to  
 15 serve as medical director and fulfill specified duties of the  
 16 secretary-treasurer. "

17 Section 6. Section 61-6-6 NMSA 1978 (being Laws 1973,  
 18 Chapter 361, Section 1, as amended) is amended to read:

19 "61-6-6. DEFINITIONS. --As used in Chapter 61, Article 6  
 20 NMSA 1978:

21 [~~A. "acting in good faith" means acting without~~  
 22 ~~malice as the primary motive or without knowledge or belief~~  
 23 ~~that one is in error in taking a particular action;]~~

24 A. "approved postgraduate training program" means a  
 25 program approved by the accrediting council on graduate medical

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1 education of the American medical association or by the board;

2 B. "board" means the New Mexico medical board [~~of~~  
3 ~~medical examiners~~];

4 C. "licensed physician" means a medical doctor  
5 licensed under the Medical Practice Act to practice medicine in  
6 New Mexico;

7 D. "licensee" means a medical doctor, physician  
8 assistant or anesthesiologist assistant licensed by the board  
9 to practice in New Mexico;

10 [~~D.-~~] E. "medical college or school in good  
11 standing" means a board-approved medical college or school that  
12 has as high a standard as that required by the association of  
13 American medical colleges and the council on medical education  
14 of the American medical association;

15 [~~E.-~~] F. "medical student" means a student enrolled  
16 in a board-approved medical college or school in good standing;

17 [~~F.-~~ "person" means an individual or any legal  
18 entity of any kind whatever;]

19 G. "physician assistant" means [~~a skilled person~~  
20 ~~licensed by the board as being qualified by academic and~~  
21 ~~practical training to provide patient services under the~~  
22 ~~supervision and direction of the licensed physician who is~~  
23 ~~responsible for the performance of that assistant] a health  
24 professional who is licensed by the board to practice as a  
25 physician assistant and who provides services to patients under~~

1 the supervision and direction of a licensed physician;

2 H. [~~"postgraduate year one" or~~] "intern" means a  
3 first-year postgraduate student upon whom a degree of doctor of  
4 medicine and surgery or equivalent degree has been conferred by  
5 a medical college or school in good standing;

6 I. [~~"postgraduate year two through eight" or~~]  
7 "resident" means a graduate of a medical college or school in  
8 good standing who is in training in a board-approved and  
9 accredited residency training program in a hospital or facility  
10 affiliated with an approved hospital and who has been appointed  
11 to the position of "resident" or [~~"assistant resident"~~]  
12 "fellow" for the purpose of postgraduate medical training;

13 J. "the practice of medicine" consists of:

14 (1) advertising, holding out to the public or  
15 representing in any manner that one is authorized to practice  
16 medicine in this state;

17 (2) offering or undertaking to administer,  
18 dispense or prescribe [~~any~~] a drug or medicine for the use of  
19 [~~any other~~] another person, except as authorized pursuant to a  
20 professional or occupational licensing statute set forth in  
21 Chapter 61 NMSA 1978;

22 (3) offering or undertaking to give or  
23 administer, dispense or prescribe [~~any~~] a drug or medicine for  
24 the use of [~~any other~~] another person, except as directed by a  
25 licensed physician;

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1 (4) offering or undertaking to perform [~~any~~]  
2 an operation or procedure upon [~~any~~] a person;

3 (5) offering or undertaking to diagnose,  
4 correct or treat in any manner or by any means, methods,  
5 devices or instrumentalities any disease, illness, pain, wound,  
6 fracture, infirmity, deformity, defect or abnormal physical or  
7 mental condition of [~~any~~] a person;

8 (6) offering medical peer review, utilization  
9 review or diagnostic service of any kind that directly  
10 influences patient care, except as authorized pursuant to a  
11 professional or occupational licensing statute set forth in  
12 Chapter 61 NMSA 1978; or

13 (7) acting as the representative or agent of  
14 [~~any~~] a person in doing any of the things listed in [~~Paragraphs~~  
15 ~~(1) through (6) of~~] this subsection;

16 K. "the practice of medicine across state lines"  
17 means:

18 (1) the rendering of a written or otherwise  
19 documented medical opinion concerning diagnosis or treatment of  
20 a patient within this state by a physician located outside this  
21 state as a result of transmission of individual patient data by  
22 electronic, telephonic or other means from within this state to  
23 the physician or the physician's agent; or

24 (2) the rendering of treatment to a patient  
25 within this state by a physician located outside this state as

1 a result of transmission of individual patient data by  
2 electronic, telephonic or other means from within this state to  
3 the physician or the physician's agent;

4 L. "sexual contact" means touching the primary  
5 genital area, groin, anus, buttocks or breast of a patient or  
6 allowing a patient to touch another's primary genital area,  
7 groin, anus, buttocks or breast in a manner that is commonly  
8 recognized as outside the scope of acceptable medical practice;

9 M "sexual penetration" means sexual intercourse,  
10 cunnilingus, fellatio or anal intercourse, whether or not there  
11 is any emission, or introducing any object into the genital or  
12 anal openings of another in a manner that is commonly  
13 recognized as outside the scope of acceptable medical practice;  
14 and

15 N. "United States" means the fifty states, its  
16 territories and possessions and the District of Columbia. "

17 Section 7. Section 61-6-7 NMSA 1978 (being Laws 1973,  
18 Chapter 361, Section 3, as amended) is amended to read:

19 "61-6-7. SHORT TITLE-- LICENSURE AS A PHYSICIAN  
20 ASSISTANT-- SCOPE OF PRACTICE-- BIENNIAL REGISTRATION OF  
21 SUPERVISION-- [CHANGE] LICENSE RENEWAL-- FEES. --

22 A. Sections 61-6-7 through 61-6-10 NMSA 1978 may be  
23 cited as the "Physician Assistant Act".

24 B. The board may license [~~qualified persons~~] as a  
25 physician [~~assistants. No~~] assistant a qualified person who

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underscored material = new  
[bracketed material] = delete

1 has graduated from a physician assistant or surgeon assistant  
2 program accredited by the national accrediting body as  
3 established by rule and has passed a physician assistant  
4 national certifying examination as established by rule. The  
5 board may also license as a physician assistant a person who  
6 passed the physician assistant national certifying examination  
7 administered by the national commission on certification of  
8 physician assistants prior to 1986.

9 C. A person shall not perform, attempt to perform  
10 or hold himself out as a physician assistant without first  
11 applying for and obtaining a license from the board and without  
12 [~~biennially~~] registering his supervising licensed physician in  
13 accordance with board [~~regulations. Physician assistants who~~  
14 ~~are registered under the Physician Assistant Act as of June 31,~~  
15 ~~1997 shall be considered to be licensed until the expiration of~~  
16 ~~that registration~~] rules.

17 [~~C.~~] D. Physician assistants may prescribe,  
18 administer and distribute dangerous drugs other than controlled  
19 substances in Schedule I of the Controlled Substances Act  
20 pursuant to [~~regulations~~] rules adopted by the board after  
21 consultation with the board of pharmacy [~~provided that~~] if the  
22 prescribing, administering and distributing are done under the  
23 direction of a supervising licensed physician and within the  
24 parameters of a board-approved formulary and guidelines  
25 established under [~~Paragraph (3) of Subsection A~~] Subsection C

1 of Section 61-6-9 NMSA 1978. The distribution process shall  
 2 comply with state laws concerning prescription packaging,  
 3 labeling and record keeping requirements. Physician assistants  
 4 shall not otherwise dispense dangerous drugs or controlled  
 5 substances.

6 ~~[D-]~~ E. A physician assistant shall perform only  
 7 ~~[those]~~ the acts and duties assigned ~~[him]~~ to the physician  
 8 assistant by a supervising licensed physician that are within  
 9 the scope of practice of the supervising licensed physician.

10 ~~[E-]~~ F. An applicant for licensure as a physician  
 11 assistant shall complete application forms supplied by the  
 12 board and shall pay a licensing fee as provided in Section  
 13 61-6-19 NMSA 1978. ~~[Upon being licensed by the board, the~~  
 14 ~~applicant shall have his name and address and other pertinent~~  
 15 ~~information enrolled by the board on a roster of physician~~  
 16 ~~assistants.~~

17 ~~F.—Each]~~ G. A physician assistant shall biennially  
 18 submit proof of ~~[completion of continuing education as required~~  
 19 ~~by the board]~~ current certification by the national commission  
 20 on certification of physician assistants and shall ~~[biennially]~~  
 21 renew ~~[his]~~ the license and registration of supervision of the  
 22 physician assistant with the board. ~~[Upon any change in~~  
 23 ~~supervising physician between biennial registrations, each~~  
 24 ~~physician assistant shall reregister his supervising physician~~  
 25 ~~and shall pay any additional registration of supervision fees~~

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1 ~~as provided in Section 61-6-19 NMSA 1978. All~~ Applications  
2 for licensure or registration of supervision shall include the  
3 applicant's name, current address, the name and office address  
4 of the supervising licensed physician and other additional  
5 information as the board deems necessary. ~~[Upon any change of~~  
6 ~~supervising licensed physician, prior registration of~~  
7 ~~supervision shall automatically become void or inactive.]~~

8 H. Before starting work, a physician assistant  
9 shall ensure that the supervising licensed physician of the  
10 physician assistant is registered by the board. The license of  
11 a physician assistant shall only be valid when the physician  
12 assistant works under the supervision of a board-registered  
13 licensed physician.

14 ~~[G.]~~ I. Each biennial renewal of ~~[registration of~~  
15 ~~supervision]~~ licensure shall be accompanied by a fee as  
16 provided in Section 61-6-19 NMSA 1978. "

17 Section 8. Section 61-6-7.2 NMSA 1978 (being Laws 1997,  
18 Chapter 187, Section 3) is amended to read:

19 "61-6-7.2. INACTIVE LICENSE. --

20 A. A physician assistant license shall expire every  
21 two years on a date established by the board.

22 ~~[A.]~~ B. A physician assistant who notifies the  
23 board in writing on forms prescribed by the board may elect to  
24 place his license on an inactive status. A physician assistant  
25 with an inactive license shall be excused from payment of

1 renewal fees and shall not practice as a physician assistant.

2 ~~[B.]~~ C. A physician assistant who engages in  
3 practice while his license is lapsed or on inactive status is  
4 practicing without a license, and this is grounds for  
5 discipline pursuant to the Physician Assistant Act.

6 ~~[C.]~~ D. A physician assistant requesting  
7 restoration from inactive status shall pay the current renewal  
8 fee and fulfill the requirement for renewal pursuant to the  
9 Physician Assistant Act.

10 E. The board may, in its discretion, summarily  
11 suspend for nonpayment of fees the license of a physician  
12 assistant who has not renewed his license within ninety days of  
13 expiration.

14 F. A physician assistant who has not submitted an  
15 application for renewal on or before the license expiration  
16 date, but who has submitted an application for renewal within  
17 forty-five days after the license expiration date, shall be  
18 assessed a late fee.

19 G. A physician assistant who has not submitted an  
20 application for renewal between forty-six and ninety days after  
21 the expiration date shall be assessed a late fee."

22 Section 9. Section 61-6-9 NMSA 1978 (being Laws 1973,  
23 Chapter 361, Section 5, as amended) is amended to read:

24 "61-6-9. PHYSICIAN ASSISTANTS--RULES [~~AND REGULATIONS~~]. --  
25 [~~A.~~] The board may adopt and enforce reasonable rules [~~and~~

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1 ~~regulations:~~

2 ~~(1) for setting qualifications of] for:~~

3 A. education, skill and experience for licensure of  
4 a person as a physician assistant and providing forms and  
5 procedures for biennial licensure and registration of  
6 supervision by a licensed physician;

7 ~~[(2) for] B.~~ examining and evaluating ~~[applicants]~~  
8 an applicant for licensure as a physician assistant as to  
9 ~~[their]~~ skill, knowledge and experience of the applicant in the  
10 field of medical care;

11 ~~[(3) for] C.~~ establishing when and for how long  
12 physician assistants are permitted to prescribe, administer and  
13 distribute dangerous drugs other than controlled substances in  
14 Schedule I of the Controlled Substances Act pursuant to  
15 ~~[regulations]~~ rules adopted by the board after consultation  
16 with the board of pharmacy;

17 ~~[(4) for] D.~~ allowing a supervising licensed  
18 physician to temporarily delegate ~~[his]~~ supervisory  
19 responsibilities for a physician assistant to another licensed  
20 physician;

21 ~~[(5) for] E.~~ allowing a physician assistant to  
22 temporarily serve under the supervision of a licensed physician  
23 other than the supervising licensed physician of record; and

24 ~~[(6) for the purpose of]~~

25 F. carrying out all other provisions of the

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1 Physician Assistant Act.

2 ~~[B. The board shall not adopt any rule or~~  
 3 ~~regulation allowing a physician assistant to measure the~~  
 4 ~~powers, range or accommodative status of human vision; diagnose~~  
 5 ~~vision problems; prescribe lenses, prisms, vision training or~~  
 6 ~~contact lenses; or fit contact lenses. This restriction does~~  
 7 ~~not preclude vision screening. The board shall not adopt any~~  
 8 ~~rule or regulation allowing a physician assistant to perform~~  
 9 ~~treatment of the human foot outside the physician assistant's~~  
 10 ~~scope of practice.]"~~

11 Section 10. Section 61-6-10 NMSA 1978 (being Laws 1973,  
 12 Chapter 361, Section 6, as amended) is amended to read:

13 "61-6-10. SUPERVISING LICENSED PHYSICIAN--  
 14 RESPONSIBILITY. --

15 A. As a condition of [~~biennial~~] licensure [~~and~~  
 16 ~~renewal of registration of supervision~~], all physician  
 17 assistants practicing in New Mexico shall inform the board of  
 18 the name of the licensed physician under whose supervision they  
 19 will practice. All supervising physicians shall be licensed  
 20 under the Medical Practice Act and shall be approved by the  
 21 board.

22 B. Every licensed physician supervising a licensed  
 23 physician assistant shall be individually responsible and  
 24 liable for the performance of the acts and omissions delegated  
 25 to the physician assistant. Nothing in this section shall be

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1 construed to relieve the physician assistant of [~~any~~]  
2 responsibility and liability for [~~any of his own~~] the acts and  
3 omissions of the physician assistant.

4 C. [~~No~~] A licensed physician [~~may have under his~~  
5 ~~supervision~~] shall not supervise more than two physician  
6 assistants; except, where a physician is working in a health  
7 facility providing health service to the public primarily on a  
8 free or reduced fee basis, that is funded in whole or in part  
9 out of public funds or the funds of private charitable  
10 institutions or for good cause shown, the board ~~may~~ authorize a  
11 greater number upon a finding that the program provides  
12 adequate supervision of the physician assistants. "

13 Section 11. Section 61-6-10.2 NMSA 1978 (being Laws 2001,  
14 Chapter 311, Section 2) is amended to read:

15 "61-6-10.2. DEFINITIONS. --As used in the Anesthesiologist  
16 Assistants Act:

17 A. "anesthesiologist" means a physician licensed to  
18 practice medicine in New Mexico who has successfully completed  
19 an accredited anesthesiology graduate medical education  
20 program, who is board certified by the American board of  
21 anesthesiology or board eligible, who has completed a residency  
22 in anesthesiology within the last three years and who is an  
23 employee of the department of anesthesiology of a medical  
24 school in New Mexico;

25 B. "anesthesiologist assistant" means a skilled

1 person employed or to be employed by a university in New Mexico  
 2 with a medical school certified by the board as being qualified  
 3 by academic and practical training to assist an  
 4 anesthesiologist in developing and implementing anesthesia care  
 5 plans for patients under the supervision and direction of the  
 6 anesthesiologist who is responsible for the performance of  
 7 ~~[that]~~ the anesthesiologist assistant;

8 C. "applicant" means a person who is applying to  
 9 the board for a license as an anesthesiologist assistant;

10 D. "board" means the New Mexico medical board ~~[of~~  
 11 ~~medical examiners]~~; and

12 E. "license" means an authorization to practice as  
 13 an anesthesiologist assistant. "

14 Section 12. Section 61-6-11 NMSA 1978 (being Laws 1923,  
 15 Chapter 44, Section 3, as amended) is amended to read:

16 "61-6-11. LICENSURE. --

17 A. The board may ~~[admit to examination]~~ consider  
 18 for ~~[license any]~~ licensure a person who is of good moral  
 19 character, ~~[and]~~ is a graduate of a medical college or school  
 20 in good standing, ~~[as defined in Subsection D of Section 61-6-6~~  
 21 ~~NMSA 1978]~~ has passed an examination approved by the board and  
 22 ~~[who]~~ has completed two years of an approved postgraduate  
 23 training program.

24 ~~[B. One year of postgraduate medical training may~~  
 25 ~~be accepted by the board if the applicant was an intern in a~~

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1 ~~board-approved program from July 1, 1993 through June 30, 1994~~  
2 ~~and if the applicant applies to the board for licensure before~~  
3 ~~July 1, 1995. All postgraduate training shall be approved by~~  
4 ~~the board.~~

5 ~~C.]~~ B. An applicant who has not completed two years  
6 of an approved postgraduate [~~medical~~] training program, but who  
7 otherwise meets all other licensing requirements, may present  
8 evidence to the board of the applicant's other professional  
9 experience for consideration by the board in lieu of the  
10 approved postgraduate [~~medical~~] training program. The board  
11 shall, in its sole discretion, determine if the professional  
12 experience is substantially equivalent to the required approved  
13 postgraduate [~~medical~~] training program.

14 ~~[D.]~~ ~~The board may administer a board-approved~~  
15 ~~licensing examination. The board shall determine a grade~~  
16 ~~constituting successful completion of the exam.~~

17 ~~E.]~~ ~~Alternatively, the board may issue a license to~~  
18 ~~any applicant of good moral character and after successfully~~  
19 ~~completing an examination accepted by the board as administered~~  
20 ~~in this or another state.~~

21 ~~F.]~~ C. A graduate of a board-approved medical  
22 college located outside the United States may be granted a  
23 license to practice medicine in New Mexico, provided the  
24 applicant presents evidence to the board that the applicant is  
25 a person of good moral character and is in compliance with the

1 United States immigration laws and provided that the applicant  
 2 presents satisfactory evidence to the board that the applicant  
 3 has successfully passed an examination as required by the board  
 4 and has successfully completed two years of postgraduate  
 5 medical training in [~~a board approved~~] an approved postgraduate  
 6 training program.

7 [~~G.~~] D. All applicants for licensure [~~by~~  
 8 ~~examination shall~~] may be required to appear personally  
 9 [~~appear~~] before the board or a designated [~~member of the board~~]  
 10 agent for an interview.

11 [~~H.—No~~] E. An applicant for licensure by  
 12 examination shall not be granted a license if the applicant has  
 13 taken the examination in two or more steps and has failed to  
 14 successfully pass the final step within seven years of the date  
 15 that the first step was passed. An applicant for licensure who  
 16 holds a medical doctor degree and a doctoral degree in a  
 17 medically related field must successfully complete the entire  
 18 examination series within ten years from the date the first  
 19 step of the examination is passed.

20 [~~F.~~] F. Every applicant for licensure under this  
 21 section shall pay the fees required by Section 61-6-19 NMSA  
 22 1978.

23 G. The board may require fingerprints and other  
 24 information necessary for a state and national criminal  
 25 background check."

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1 Section 13. Section 61-6-13 NMSA 1978 (being Laws 1989,  
2 Chapter 269, Section 9, as amended) is amended to read:

3 "61-6-13. LICENSURE BY ENDORSEMENT. --

4 A. The board may grant a license without  
5 examination and by endorsement to an applicant who is properly  
6 endorsed by the officers of the examining board with  
7 jurisdiction or by the Canadian medical council and:

8 (1) has graduated from a medical college or  
9 school in good standing;

10 (2) is board certified in a specialty  
11 recognized by the American board of medical specialties;

12 (3) has been a licensed physician [~~outside of~~  
13 ~~New Mexico, but~~] in the United States [~~and who otherwise meets~~  
14 ~~the requirements set forth in the Medical Practice Act,~~  
15 ~~provided that the applicant is properly endorsed by the~~  
16 ~~officers of the examining board with jurisdiction.~~

17 B. ~~The board may grant a license without~~  
18 ~~examination and by endorsement to any applicant who has been a~~  
19 ~~licensed physician in Canada and who otherwise meets the~~  
20 ~~requirements set forth in the Medical Practice Act, provided~~  
21 ~~that the applicant is properly endorsed by the officers of~~  
22 ~~either the Canadian medical council or an examining board with~~  
23 ~~jurisdiction within the United States] or Canada and has  
24 practiced medicine in the United States or Canada immediately  
25 preceding the application for at least three years;~~

1                   (4) holds an unrestricted license in another  
2 state or Canada; and

3                   (5) was not the subject of a disciplinary  
4 action in a state or province.

5                   [~~C-~~] B. The board may grant a license [without  
6 examination and] by endorsement to [any] an applicant who is  
7 properly endorsed by the officers of the examining board with  
8 jurisdiction or by the Canadian medical council and:

9                   (1) has graduated from a medical college  
10 located outside the United States or Canada [and who];

11                   (2) is of good moral character [who];

12                   (3) is in compliance with the United States  
13 immigration laws [and who];

14                   (4) is board certified in a specialty  
15 recognized by the American board of medical specialties;

16                   (5) has been a licensed physician in the  
17 United States or Canada and has practiced medicine in the  
18 United States or Canada immediately preceding the application  
19 [and who otherwise meets the requirements set forth in the  
20 Medical Practice Act, provided that the applicant is properly  
21 endorsed by the officers of the examining board within the  
22 United States or Canada that has jurisdiction] for at least  
23 three years;

24                   (6) holds an unrestricted license in another  
25 state or Canada; and

1                                    (7) was not the subject of disciplinary action  
2 in a state or province.

3                    ~~[D-]~~ C. An endorsement provided pursuant to this  
4 section shall certify that the applicant has passed an  
5 examination that meets with board approval and that the  
6 applicant is in good standing in that jurisdiction. In cases  
7 when the applicant is board-certified, has not been the subject  
8 of disciplinary action that would be reportable to the national  
9 practitioner data bank or the healthcare integrity and  
10 protection data bank and has unusual skills and experience not  
11 generally available in this state, and patients residing in  
12 this state have a significant need for such skills and  
13 experience, the board may waive ~~[any]~~ a requirement imposing  
14 time limits for examination completion that are different from  
15 ~~[those]~~ requirements of the state where the applicant is  
16 licensed.

17                    ~~[E. All applicants]~~ D. An applicant for licensure  
18 under this section ~~[shall]~~ may be required to personally appear  
19 before the board or a designated ~~[board member]~~ agent for an  
20 interview.

21                    ~~[F. All applicants]~~ E. An applicant for licensure  
22 under this section shall pay an application fee as provided in  
23 Section 61-6-19 NMSA 1978.

24                    F. The board may require fingerprints and other  
25 information necessary for a state and national criminal

underscored material = new  
[bracketed material] = delete

1 background check."

2 Section 14. Section 61-6-14 NMSA 1978 (being Laws 1953,  
3 Chapter 48, Section 2, as amended) is amended to read:

4 "61-6-14. ORGANIZED YOUTH CAMP OR SCHOOL TEMPORARY  
5 LICENSES AND TEMPORARY LICENSES FOR OUT-OF-STATE PHYSICIANS. --

6 A. The secretary-treasurer of the board may issue  
7 to [~~any~~] an applicant qualified to practice medicine and  
8 surgery in this state, either by examination or by endorsement,  
9 who will be temporarily in attendance at [~~any~~] an organized  
10 youth camp or school, a temporary license to practice medicine  
11 and surgery, the practice to be confined to enrollees, leaders  
12 and employees of the camp or school and the following  
13 provisions shall apply:

14 (1) the temporary license shall be issued for  
15 a period not to exceed three months from date of issuance; and

16 (2) the temporary license may be issued upon  
17 written application of the applicant, accompanied by such proof  
18 of [~~his~~] the qualifications of the applicant as [~~the secretary-~~  
19 ~~treasurer of the board, in his discretion, may require~~]  
20 specified by board rule.

21 B. The secretary-treasurer of the board may issue  
22 to [~~any~~] an applicant who is licensed to practice medicine in  
23 another state, territory of the United States or another  
24 country and who is qualified to practice medicine and surgery  
25 in this state a temporary license to practice medicine under

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1 the [~~sponsorship~~] supervision of [~~and in association with~~] a  
2 licensed [~~New Mexico~~] physician. The following provisions  
3 shall apply:

4 (1) the temporary license may be issued upon  
5 written application of the applicant, accompanied by [~~such~~]  
6 proof of [~~his~~] qualifications as [~~the secretary-treasurer of~~  
7 ~~the board, in his discretion, may require~~] specified by rule of  
8 the board. A temporary [~~licenses~~] license may be granted to  
9 allow the applicant to assist in teaching, conducting research,  
10 performing specialized diagnostic and treatment procedures,  
11 [~~and~~] implementing new technology and for physician educational  
12 purposes. [~~Licensees~~] A licensee may engage in only [~~those~~]  
13 the activities specified on the temporary license, and the  
14 temporary license shall identify the licensed [~~New Mexico~~]  
15 physician who will [~~sponsor and associate with~~] supervise the  
16 applicant during the time the applicant practices medicine in  
17 New Mexico. The [~~sponsoring or associating~~] supervising  
18 licensed physician shall submit an affidavit attesting to the  
19 qualifications of the applicant and activities the applicant  
20 will perform; and

21 (2) the temporary license shall be issued for  
22 a period not to exceed three months from date of issuance and  
23 may be renewed upon application and payment of fees as provided  
24 in Section 61-6-19 NMSA 1978.

25 [~~C. Whenever an eligible applicant has filed his~~

1 ~~application and complied with all other requirements of the~~  
 2 ~~Medical Practice Act in the interim between regular board~~  
 3 ~~meetings, the secretary-treasurer may issue an interim license~~  
 4 ~~to hold good until the next regular licensing meeting of the~~  
 5 ~~board.~~

6 ~~D-]~~ C. The application for a temporary license  
 7 under this section shall be accompanied by a license fee as  
 8 provided in Section 61-6-19 NMSA 1978. "

9 Section 15. Section 61-6-15 NMSA 1978 (being Laws 1969,  
 10 Chapter 46, Section 6, as amended) is amended to read:

11 "61-6-15. LICENSE MAY BE REFUSED, REVOKED OR  
 12 SUSPENDED-- LICENSEE MAY BE FINED, CENSURED OR REPRIMANDED--  
 13 PROCEDURE-- PRACTICE AFTER SUSPENSION OR REVOCATION-- PENALTY--  
 14 UNPROFESSIONAL AND DISHONORABLE CONDUCT DEFINED-- FEES AND  
 15 EXPENSES[NOTICE OF CLAIM]. --

16 A. The board may refuse to license and may revoke  
 17 or suspend [any] a license that has been issued by the board or  
 18 [any] a previous board and may fine, censure or reprimand [any]  
 19 a licensee upon satisfactory proof being made to the board that  
 20 the applicant for or holder of the license has been guilty of  
 21 unprofessional or dishonorable conduct. The board may also  
 22 refuse to license an applicant who is unable to practice  
 23 medicine, or practice as a physician assistant or an  
 24 anesthesiologist assistant, pursuant to Section 61-7-3 NMSA  
 25 1978. All proceedings shall be as required by the Uniform

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1 Licensing Act or the Impaired Health Care Provider Act.

2 B. The board may, in its discretion and for good  
3 cause shown, place the licensee on probation on [~~such~~] the  
4 terms and conditions [~~as~~] it deems proper for protection of the  
5 public, [~~or~~] for the purpose of [~~the~~] rehabilitation of the  
6 probationer or both. Upon expiration of the term of probation,  
7 if a term is set, further proceedings may be abated by the  
8 board if the holder of the license furnishes the board with  
9 evidence that the [~~physician~~] licensee is competent to practice  
10 [~~medicine~~], is of good moral character and has complied with  
11 the terms of probation.

12 C. If evidence fails to establish to the  
13 satisfaction of the board that the licensee is competent and is  
14 of good moral character or if evidence shows that [~~he~~] the  
15 licensee has not complied with the terms of probation, the  
16 board may revoke or suspend the license [~~forthwith~~]. If a  
17 license to practice [~~medicine~~] in this state is suspended, the  
18 holder of the license may not practice during the term of  
19 suspension. [~~Any~~] A person whose license has been revoked or  
20 suspended by the board and who thereafter practices or attempts  
21 or offers to practice [~~medicine~~] in New Mexico, unless the  
22 period of suspension has expired or been modified by the board  
23 or the [~~physician's~~] license reinstated, is guilty of a felony  
24 and shall be punished as provided in Section 61-6-20 NMSA 1978.

25 D. "Unprofessional or dishonorable conduct", as

1 used in this section, means, [~~among other things~~] but is not  
2 limited to because of enumeration, conduct of a licensee that  
3 includes the following:

4 (1) procuring, aiding or abetting a criminal  
5 abortion;

6 (2) employing [~~any~~] a person to solicit  
7 patients for the [~~physician~~] licensee;

8 (3) representing to a patient that a  
9 manifestly incurable condition of sickness, disease or injury  
10 can be cured;

11 (4) obtaining [~~any~~] a fee by fraud or  
12 misrepresentation;

13 (5) willfully or negligently divulging a  
14 professional confidence;

15 (6) conviction of [~~any~~] an offense punishable  
16 by incarceration in a state penitentiary or federal prison or  
17 conviction of a misdemeanor associated with the practice of  
18 [~~medicine~~] the licensee. A copy of the record of conviction,  
19 certified by the clerk of the court entering the conviction, is  
20 conclusive evidence;

21 (7) habitual or excessive use of intoxicants  
22 or drugs;

23 (8) fraud or misrepresentation in applying for  
24 or procuring a license to practice in this state or in  
25 connection with applying for or procuring renewal, including

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1 cheating on or attempting to subvert the licensing  
2 examinations;

3 (9) making false or misleading statements  
4 regarding the [~~physician's~~] skill of the licensee or the  
5 efficacy or value of the medicine, treatment or remedy  
6 prescribed or administered by the [~~physician~~] licensee or at  
7 the [~~physician's~~] direction of the licensee in the treatment of  
8 [~~any~~] a disease or other condition of the human body or mind;

9 (10) impersonating another [~~person licensed to~~  
10 ~~practice medicine~~] licensee, permitting or allowing [~~any~~] a  
11 person to use the [~~physician's~~] license [~~or certificate of~~  
12 ~~registration~~] of the licensee or practicing [~~medicine~~] as a  
13 licensee under a false or assumed name;

14 (11) aiding or abetting the practice of  
15 [~~medicine by~~] a person not licensed by the board;

16 (12) gross negligence in the practice of  
17 [~~medicine~~] a licensee;

18 (13) manifest incapacity or incompetence to  
19 practice [~~medicine~~] as a licensee;

20 (14) discipline imposed on a licensee [~~to~~  
21 ~~practice medicine~~] by another state, including probation,  
22 suspension or revocation, based upon acts by the licensee  
23 similar to acts described in this section. A certified copy of  
24 the record of suspension or revocation of the state making the  
25 suspension or revocation is conclusive evidence;

1 (15) the use of [~~any~~] a false, fraudulent or  
2 deceptive statement in [~~any~~] a document connected with the  
3 practice of [~~medicine~~] a licensee;

4 (16) fee splitting;

5 (17) the prescribing, administering or  
6 dispensing of narcotic, stimulant or hypnotic drugs for other  
7 than accepted therapeutic purposes;

8 (18) conduct likely to deceive, defraud or  
9 harm the public;

10 (19) repeated similar negligent acts;

11 (20) employing abusive billing practices;

12 (21) failure to report to the board any  
13 adverse action taken against the [~~physician~~] licensee by:

14 (a) another licensing jurisdiction;

15 (b) [~~any~~] a peer review body;

16 (c) [~~any~~] a health care entity;

17 (d) [~~any~~] a professional or medical  
18 society or association;

19 (e) [~~any~~] a governmental agency;

20 (f) [~~any~~] a law enforcement agency; or

21 (g) [~~any~~] a court for acts or conduct  
22 similar to acts or conduct that would constitute grounds for  
23 action as defined in this section;

24 (22) failure to report to the board surrender  
25 of a license or other authorization to practice [~~medicine~~] in

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1 another state or jurisdiction or surrender of membership on any  
2 medical staff or in any medical or professional association or  
3 society following, in lieu of and while under disciplinary  
4 investigation by any of those authorities or bodies for acts or  
5 conduct similar to acts or conduct that would constitute  
6 grounds for action as defined in this section;

7 (23) failure to furnish the board, its  
8 investigators or representatives with information requested by  
9 the board;

10 (24) abandonment of patients;

11 (25) being found mentally incompetent or  
12 insane by a court of competent jurisdiction;

13 (26) injudicious prescribing, administering or  
14 dispensing of [~~any~~] a drug or medicine;

15 (27) failure to adequately supervise, as  
16 provided by board [~~regulation~~] rule, a medical or surgical  
17 assistant or technician or professional licensee who renders  
18 health care;

19 (28) [~~intentionally engaging in sexual contact~~  
20 ~~or sexual penetration with a patient~~] sexual contact with a  
21 patient or person who has authority to make medical decisions  
22 for a patient, other than [~~one's~~] the spouse of the licensee,  
23 after representing or inferring that [~~such~~] the activity is a  
24 legitimate part of the patient's treatment;

25 (29) conduct unbecoming in a person licensed

1 to practice [~~medicine~~] or detrimental to the best interests of  
2 the public; [~~and~~]

3 (30) the surrender of a license [~~to practice~~  
4 ~~medicine~~] or withdrawal of an application for a license [~~to~~  
5 ~~practice medicine~~] before another state licensing board while  
6 an investigation or disciplinary action is pending before that  
7 board for acts or conduct similar to acts or conduct that would  
8 constitute grounds for action [~~as provided for in~~] pursuant to  
9 this section;

10 (31) sexual contact with a former mental  
11 health patient of the licensee, other than the spouse of the  
12 licensee, within one year from the end of treatment;

13 (32) sexual contact with a patient when the  
14 licensee uses or exploits treatment, knowledge, emotions or  
15 influence derived from the previous professional relationship;

16 (33) improper management of medical records,  
17 including failure to maintain timely, accurate, legible and  
18 complete medical records;

19 (34) failure to provide pertinent and  
20 necessary medical records to a physician or patient of the  
21 physician in a timely manner when legally requested to do so by  
22 the patient or by a legally designated representative of the  
23 patient;

24 (35) undertreatment of pain as provided by  
25 board rule;

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1                   (36) interaction with physicians, hospital  
2 personnel, patients, family members or others that interferes  
3 with patient care or could reasonably be expected to adversely  
4 impact the quality of care rendered to a patient;

5                   (37) soliciting or receiving compensation by a  
6 physician assistant or anesthesiologist assistant from a person  
7 who is not an employer of the assistant; or

8                   (38) willfully or negligently divulging  
9 privileged information or a professional secret.

10                   E. As used in this section, "fee splitting"  
11 includes offering, delivering, receiving or accepting any  
12 unearned rebate, refunds, commission preference, patronage  
13 dividend, discount or other unearned consideration, whether in  
14 the form of money or otherwise, as compensation or inducement  
15 for referring patients, clients or customers to [any] a person,  
16 irrespective of any membership, proprietary interest or co-  
17 ownership in or with [any] a person to whom the patients,  
18 clients or customers are referred.

19                   ~~[F. Licensees shall bear all costs of disciplinary~~  
20 ~~proceedings unless exonerated.]~~

21                   ~~G.]~~ F. Licensees whose licenses are in a  
22 probationary status shall pay reasonable expenses for  
23 maintaining probationary status, including laboratory costs  
24 when laboratory testing of biological fluids are included as a  
25 condition of probation.

1           ~~[H. For the purpose of investigating the competence~~  
 2 ~~of medical practitioners covered by the Medical Practice Act~~  
 3 ~~who practice medicine in the state of New Mexico, any entity~~  
 4 ~~issuing professional liability insurance to physicians or~~  
 5 ~~indemnifying physicians for professional liability in New~~  
 6 ~~Mexico shall report to the board all settlements or judgments~~  
 7 ~~against licensed physicians, whether they are tried in court or~~  
 8 ~~settled out of court.]"~~

9           Section 16. Section 61-6-16 NMSA 1978 (being Laws 1989,  
 10 Chapter 269, Section 12) is amended to read:

11           "61-6-16. REPORTING OF SETTLEMENTS AND JUDGMENTS,  
 12 PROFESSIONAL REVIEW ACTIONS AND ACCEPTANCE OF SURRENDERED  
 13 LICENSE- -IMMUNITY FROM CIVIL DAMAGES- -PENALTY. - -

14           A. All entities [~~which~~] that make payments under a  
 15 policy of insurance, self-insurance or otherwise in settlement  
 16 or satisfaction of a judgment in a medical malpractice action  
 17 or claim, [~~at~~] hospitals, [~~at~~] health care entities and [~~at~~]  
 18 professional review bodies shall report to the board all  
 19 payments relating to malpractice actions or claims arising in  
 20 New Mexico, all appropriate professional review actions of  
 21 [~~physicians~~] licensees and the acceptance or surrender of  
 22 clinical privileges by a [~~physician~~] licensee while under  
 23 investigation or in lieu of an investigation. For the purposes  
 24 of this section, the meaning of these terms shall be as  
 25 contained in Section 431 of the federal Health Care Quality

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1 Improvement Act of 1986, 42 [~~U.S.C.A. §11151~~] USCA Section  
2 11151.

3 B. [~~No~~] The hospitals required to report under this  
4 section, health care entities or professional review bodies  
5 [~~which~~] that provide such information in good faith shall not  
6 be subject to suit for civil damages as a result [~~thereof~~] of  
7 providing the information.

8 C. [~~Any~~] A hospital, health care entity or  
9 professional review body failing to comply with the reporting  
10 requirements provided in this section shall be subject to civil  
11 penalty not to exceed [~~two thousand dollars (\$2,000)~~] ten  
12 thousand dollars (\$10,000). "

13 Section 17. Section 61-6-17 NMSA 1978 (being Laws 1973,  
14 Chapter 361, Section 8, as amended) is amended to read:

15 "61-6-17. EXCEPTIONS TO ACT. --The Medical Practice Act  
16 shall not apply to or affect:

- 17 A. gratuitous services rendered in cases of  
18 emergency;
- 19 B. the domestic administration of family remedies;
- 20 C. the practice of midwifery as regulated in this  
21 state;
- 22 D. commissioned medical officers of the armed  
23 forces of the United States and medical officers of the United  
24 States public health service or the veterans administration of  
25 the United States in the discharge of their official duties or

1 within federally controlled facilities; provided that such  
 2 persons who hold medical licenses in New Mexico shall be  
 3 subject to the provisions of the Medical Practice Act and  
 4 provided that all such persons shall be fully licensed to  
 5 practice medicine in one or more jurisdictions of the United  
 6 States;

7 E. the practice of medicine by a physician,  
 8 unlicensed in New Mexico, who performs emergency medical  
 9 procedures in air or ground transportation on a patient from  
 10 inside of New Mexico to another state or back, provided the  
 11 physician is duly licensed in that state;

12 F. the practice, as defined and limited under their  
 13 respective licensing laws, of:

- 14 (1) osteopathy;
- 15 (2) dentistry;
- 16 (3) podiatry;
- 17 (4) nursing;
- 18 (5) optometry;
- 19 (6) psychology;
- 20 (7) chiropractic;
- 21 (8) pharmacy;
- 22 (9) acupuncture and oriental medicine; or
- 23 (10) physical therapy;

24 G. ~~any~~ an act, task or function performed by a  
 25 physician assistant at the direction of and under the

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1 supervision of a licensed physician, when:

2 (1) the physician assistant is [~~registered and~~  
3 ~~has biennially renewed his registration with~~] currently  
4 licensed by the board [~~as one qualified by training or~~  
5 ~~experience to function as an assistant to a physician~~];

6 (2) the act, task or function is performed at  
7 the direction of and under the supervision of a licensed  
8 physician in accordance with rules promulgated by the board;  
9 and

10 (3) the acts of the physician assistant are  
11 within the scope of duties assigned or delegated by the  
12 supervising licensed physician and the acts are within the  
13 scope of the assistant's training;

14 H. [~~any~~] an act, task or function of laboratory  
15 technicians or technologists, x-ray technicians, nurse  
16 practitioners, ~~medical or surgical~~ assistants or other  
17 technicians or qualified persons permitted by law or  
18 established by custom as part of the duties delegated to them  
19 by:

20 (1) a licensed physician or a hospital, clinic  
21 or institution licensed or approved by the public health  
22 division of the department of health or an agency of the  
23 federal government; or

24 (2) a health care program operated or financed  
25 by an agency of the state or federal government;

1           I. a properly trained medical or surgical assistant  
2 or technician or professional licensee performing under the  
3 physician's employment and direct supervision or a visiting  
4 physician or surgeon operating under the physician's direct  
5 supervision [~~any~~] a medical act that a reasonable and prudent  
6 physician would find within the scope of sound medical judgment  
7 to delegate if, in the opinion of the delegating physician, the  
8 act can be properly and safely performed in its customary  
9 manner and if the person does not hold himself out to the  
10 public as being authorized to practice medicine in New Mexico.  
11 The delegating physician shall remain responsible for the  
12 medical acts of the person performing the delegated medical  
13 acts;

14           J. the practice of the religious tenets of [~~any~~] a  
15 church in the ministration to the sick or suffering by mental  
16 or spiritual means as provided by law; provided that the  
17 Medical Practice Act shall not be construed to exempt [~~any~~] a  
18 person from the operation or enforcement of the sanitary and  
19 quarantine laws of the state;

20           K. the acts of a physician licensed under the laws  
21 of another state of the United States who is the treating  
22 physician of a patient and orders home health or hospice  
23 services for a resident of New Mexico to be delivered by a home  
24 and community support services agency licensed in this state;  
25 provided that [~~any~~] a change in the condition of the patient

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1 shall be physically reevaluated by the treating physician in  
2 the treating physician's jurisdiction or by a licensed New  
3 Mexico physician;

4 L. a physician licensed to practice under the laws  
5 of another state who acts as a consultant to a  
6 New Mexico-licensed physician on an irregular or infrequent  
7 basis, as defined by rule of the board; and

8 M a physician who engages in the informal practice  
9 of medicine across state lines without compensation or  
10 expectation of compensation; provided that the practice of  
11 medicine across state lines conducted within the parameters of  
12 a contractual relationship shall not be considered informal and  
13 is subject to licensure and ~~[regulation]~~ rule by the board. "

14 Section 18. Section 61-6-18.1 NMSA 1978 (being Laws 1994,  
15 Chapter 80, Section 10) is amended to read:

16 "61-6-18.1. PUBLIC SERVICE LICENSE. --

17 A. ~~[A resident physician who holds a postgraduate  
18 training license, as provided in Section 61-6-18 NMSA 1978,  
19 while serving in a board-approved residency training program in  
20 New Mexico, or while enrolled in a board-approved residency  
21 training program in another jurisdiction, may apply to the  
22 board for a public service license during the resident's tenure  
23 in the board-approved residency training program when the  
24 resident]~~ Applicants for a public service license shall meet  
25 all requirements for licensure and shall:

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1                    (1) be enrolled in a board-approved residency  
 2 training program either in New Mexico or in another  
 3 jurisdiction;

4                    [~~(1)—obtains~~] (2) obtain written approval  
 5 from [~~his~~] the training program director of the applicant to  
 6 pursue a public service practice opportunity outside the  
 7 residency training program;

8                    [~~(2)—obtains~~] (3) obtain advance written  
 9 approval from [~~his~~] the training program director of the  
 10 applicant to return to the residency training program following  
 11 the period of public service; and

12                    [~~(4)—satisfies any~~] (4) satisfy other  
 13 reasonable requirements imposed by the board.

14                    B. A physician with one year postdoctoral training  
 15 may apply for a public service license when he is under the  
 16 direct supervision of a licensed physician or has immediate  
 17 access to a licensed physician by electronic means when the  
 18 public service physician is employed in a medically underserved  
 19 area.

20                    C. A public service license shall be valid for a  
 21 period of time not to exceed twelve months. A public service  
 22 license may be renewed by the board.

23                    D. An applicant for a public service license shall  
 24 pay the required fees set forth in Section 61-6-19 NMSA 1978."

25                    Section 19. Section 61-6-19 NMSA 1978 (being Laws 1989,  
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1 Chapter 269, Section 15, as amended) is amended to read:

2 "61-6-19. FEES. --

3 A. The board shall impose the following fees:

4 (1) an application fee not to exceed four  
5 hundred dollars (\$400) for licensure by endorsement as provided  
6 in Section 61-6-13 NMSA 1978;

7 (2) an application fee not to exceed four  
8 hundred dollars (\$400) for licensure by examination as provided  
9 in Section 61-6-11 NMSA 1978;

10 [~~(3)~~] ~~an examination fee equal to the cost of~~  
11 ~~purchasing the examination plus an administration fee not to~~  
12 ~~exceed fifty percent of that cost;~~

13 [~~(4)~~] (3) a triennial renewal fee not to exceed  
14 four hundred fifty dollars (\$450);

15 [~~(5)~~] (4) a fee of twenty-five dollars  
16 (\$25.00) for placing a physician's license or a physician  
17 assistant's license on inactive status;

18 [~~(6)~~] (5) a late fee not to exceed one hundred  
19 dollars (\$100) for physicians who renew their license within  
20 forty-five days after the required renewal date;

21 [~~(7)~~] (6) a late fee not to exceed two hundred  
22 dollars (\$200) for physicians who renew their licenses between  
23 forty-six and ninety days after the required renewal date;

24 [~~(8)~~] (7) a reinstatement fee not to exceed  
25 [~~the current application fee~~] six hundred dollars (\$600) for

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1 reinstatement of a revoked, suspended or inactive license;

2 [~~(9)~~] (8) a reasonable administrative fee for  
3 verification and duplication of license or registration and  
4 copying of records;

5 [~~(10)~~] (9) a reasonable publication fee for  
6 the purchase of a publication containing the names of all  
7 practitioners licensed under the Medical Practice Act;

8 [~~(11)~~] (10) an impaired physician fee not to  
9 exceed one hundred fifty dollars (\$150) for a three-year  
10 period;

11 [~~(12)~~] (11) an interim license fee not to  
12 exceed one hundred dollars (\$100);

13 [~~(13)~~] (12) a temporary license fee not to  
14 exceed one hundred dollars (\$100);

15 [~~(14)~~] (13) a postgraduate training license  
16 fee not to exceed fifty dollars (\$50.00) annually;

17 [~~(15)~~] (14) an application fee not to exceed  
18 one hundred fifty dollars (\$150) for physician assistants  
19 applying for initial licensure;

20 [~~(16)~~] (15) a licensure fee not to exceed one  
21 hundred fifty dollars (\$150) for physician assistants biennial  
22 licensing and registration of supervising licensed physician;

23 [~~(17)~~] (16) a late fee not to exceed fifty  
24 dollars (\$50.00) for physician assistants who renew their  
25 licensure within forty-five days after the required renewal

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1 date;

2 [~~(18)~~] (17) a late fee not to exceed seventy-  
3 five dollars (\$75.00) for physician assistants who renew their  
4 licensure between forty-six and ninety days after the required  
5 renewal date;

6 (18) a reinstatement fee not to exceed one  
7 hundred dollars (\$100) for physician assistants who reinstate  
8 an expired license;

9 (19) a processing fee not to exceed fifty  
10 dollars (\$50.00) for each change of a supervising licensed  
11 physician for a physician assistant;

12 [~~(19)~~] (20) a fee not to exceed three hundred  
13 dollars (\$300) annually for a physician supervising a clinical  
14 pharmacist; and

15 [~~(20)~~] (21) an application and renewal fee for  
16 a telemedicine license not to exceed four hundred dollars  
17 (\$400).

18 B. All fees are nonrefundable and shall be used by  
19 the board to carry out its duties efficiently."

20 Section 20. Section 61-6-21 NMSA 1978 (being Laws 1989,  
21 Chapter 269, Section 17) is amended to read:

22 "61-6-21. CONTINUING MEDICAL EDUCATION--PENALTY.--

23 A. The board may establish rules [~~and regulations~~]  
24 pertaining to continuing medical education for [~~physicians and~~  
25 ~~continuing education for physician assistants~~] licensees.

1           B. The board may suspend the license [~~or~~  
2 ~~registration~~] of [~~any physician or physician assistant~~] a  
3 licensee who fails to comply with continuing medical education  
4 or continuing education requirements until [~~such time as~~] the  
5 requirements are fulfilled. "

6           Section 21. Section 61-6-23 NMSA 1978 (being Laws 1989,  
7 Chapter 269, Section 19) is amended to read:

8           "61-6-23. INVESTIGATION--SUBPOENA. -- [~~For the purpose of~~  
9 ~~investigating complaints~~] To investigate a complaint against  
10 [~~physicians or physician assistants licensed or registered~~  
11 ~~under the provisions of Chapter 61, Article 6 NMSA 1978~~] a  
12 licensee, the board may issue investigative subpoenas prior to  
13 the issuance of a notice of contemplated action [~~as set forth~~  
14 ~~in Section 61-1-4 NMSA 1978~~]. "

15           Section 22. Section 61-6-26 NMSA 1978 (being Laws 1989,  
16 Chapter 269, Section 22, as amended) is amended to read:

17           "61-6-26. TRIENNIAL RENEWAL FEES--PENALTY FOR FAILURE TO  
18 RENEW LICENSE. --

19           A. On or before July 1 of every third year, every  
20 licensed [~~practitioner of medicine~~] physician in this state  
21 shall [~~have applied~~] apply for a certificate of triennial  
22 renewal of license for the ensuing three years. [~~The board may~~  
23 ~~establish a method to provide for staggered triennial renewal~~  
24 ~~terms and may prorate triennial renewal fees and impaired~~  
25 ~~physicians fees until staggered triennial renewal is~~

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1 ~~established.]~~ The fact that a [~~practitioner~~] licensed  
2 physician has not received a renewal form from the board shall  
3 not relieve [~~him~~] the physician of the duty to renew [~~his~~] the  
4 license [~~nor shall such~~] and the omission [~~on the part of~~] by  
5 the board shall not operate to exempt [~~him~~] the physician from  
6 the penalties provided by Chapter 61, Article 6 NMSA 1978 for  
7 failure to renew his license.

8 B. All licensed [~~practitioners~~] physicians shall  
9 pay a triennial renewal fee and impaired physicians fee as  
10 provided in Section 61-6-19 NMSA 1978 and [~~all practitioners~~]  
11 shall return the completed renewal form together with the  
12 renewal fee and [~~proof of continuing medical education~~] other  
13 required documentation.

14 C. Each application for triennial renewal of  
15 license shall state the [~~practitioner's~~] licensed physician's  
16 full name, business address, [~~the date and number of his~~  
17 ~~license~~] license number and date and all other information  
18 requested by the board.

19 D. A [~~practitioner~~] licensed physician who fails to  
20 submit his application for triennial renewal on or before July  
21 1 but who submits his application for triennial renewal [~~within~~  
22 ~~forty-five days thereafter~~] by August 15 shall be assessed a  
23 late fee as provided in Section 61-6-19 NMSA 1978.

24 E. A [~~practitioner~~] physician who submits the  
25 application for triennial renewal between [~~forty-five and~~

1 ~~ninety days of the July 1 deadline]~~ August 16 and September 30  
 2 shall be assessed a cumulative late fee as provided in  
 3 Paragraph [~~(7)~~] (6) of Subsection A of Section 61-6-19 NMSA  
 4 1978.

5 F. After September 30, the board may, in its  
 6 discretion, summarily suspend for nonpayment of fees the  
 7 license of a [~~practitioner~~] physician who has failed to renew  
 8 his license [~~within ninety days of July 1~~]. "

9 Section 23. Section 61-6-27 NMSA 1978 (being Laws 1945,  
 10 Chapter 74, Section 2, as amended) is amended to read:

11 "61-6-27. ISSUANCE AND DISPLAY OF RENEWAL CERTIFICATE. --  
 12 The board shall issue to each [~~duly~~] licensed [~~practitioner~~]  
 13 physician, upon [~~his~~] application in accordance with the  
 14 provisions of the Medical Practice Act and upon payment of the  
 15 appropriate fees and upon documentation of continuing education  
 16 requirements, a certificate of triennial renewal, under the  
 17 seal of the board, for the ensuing three years. The  
 18 certificate of renewal shall contain the [~~practitioner's~~]  
 19 licensed physician's name, [~~his~~] business address, [~~the date~~  
 20 ~~and number of his license to practice~~] license date and number  
 21 and [~~such~~] other information as the board deems advisable. The  
 22 certificate of triennial renewal shall, at all times, be  
 23 displayed conspicuously in the principal office or practice  
 24 location of the [~~practitioner~~] licensed physician to whom it  
 25 has been issued. "

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1 Section 24. Section 61-6-28 NMSA 1978 (being Laws 1945,  
2 Chapter 74, Section 3, as amended) is amended to read:

3 "61-6-28. [~~PRACTITIONERS~~] LICENSED PHYSICIANS- - CHANGING  
4 LOCATION [~~OR BEGINNING PRACTICE~~]. - - [~~Any practitioner~~] A  
5 licensed physician who changes the location of his office or  
6 residence [~~during the period between any two triennial renewal~~  
7 ~~dates~~] shall [~~before doing so~~] promptly notify the board of  
8 [~~such~~] the change. [~~Any person who desires to begin the~~  
9 ~~practice of medicine and surgery in this state shall, before~~  
10 ~~beginning such practice, register and pay the triennial renewal~~  
11 ~~fee for that year as provided in the Medical Practice Act.~~]"

12 Section 25. Section 61-6-30 NMSA 1978 (being Laws 1969,  
13 Chapter 46, Section 15, as amended) is amended to read:

14 "61-6-30. RESTORATION OF GOOD STANDING- - FEES AND OTHER  
15 REQUIREMENTS [~~FOR DELINQUENT REGISTRANTS~~]. - -

16 A. Before restoring to good standing a license [~~or~~  
17 ~~certificate of registration which~~] that has been in a revoked,  
18 suspended or inactive status for any cause for more than two  
19 years, the board may require the applicant to pass an oral or  
20 written examination, or both, to determine [~~his present~~] the  
21 current fitness of the applicant to resume practice and may  
22 impose conditions in its discretion.

23 B. The authority of the board to impose terms and  
24 conditions includes, but is not limited to, the following:

- 25 (1) requiring the applicant to obtain

1 additional training and to pass an examination upon completion  
2 of such training; or

3 (2) restricting or limiting the extent, scope  
4 or type of practice of the applicant.

5 C. The board shall also consider the moral  
6 background and the activities of the applicant during the  
7 period of suspension or inactivity.

8 D. If the board in its discretion determines that  
9 the applicant is qualified to be reissued a license [~~or~~  
10 ~~certificate of registration~~] in good standing, the applicant  
11 shall [~~also~~] pay to the board [~~all fees for the current and all~~  
12 ~~delinquent years~~] a reinstatement fee. "

13 Section 26. Section 61-6-31 NMSA 1978 (being Laws 1989,  
14 Chapter 269, Section 27) is amended to read:

15 "61-6-31. DISPOSITION OF FUNDS--NEW MEXICO MEDICAL BOARD  
16 [~~OF MEDICAL EXAMINERS~~] FUND CREATED--METHOD OF PAYMENTS. --

17 A. There is created the "New Mexico medical board  
18 [~~of medical examiners~~] fund".

19 B. All funds received by the board and money  
20 collected under the Medical Practice Act, the Physician  
21 Assistant Act, the Anesthesiologist Assistants Act and the  
22 Impaired [~~Physician~~] Health Care Provider Act shall be  
23 deposited with the state treasurer who shall place the same to  
24 the credit of the New Mexico medical [~~examiners~~] board fund.

25 C. All payments out of the fund shall be made on  
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underscoring material = new  
[bracketed material] = delete

1 vouchers issued and signed by the secretary-treasurer of the  
2 board or [~~his~~] the designee of the secretary-treasurer upon  
3 warrants drawn by the department of finance and administration  
4 in accordance with the budget approved by that department.

5 D. All amounts in the New Mexico medical board [~~of~~  
6 ~~medical-examiners~~] fund shall be subject to the order of the  
7 board and shall be used only for the purpose of meeting  
8 necessary expenses incurred in:

9 (1) the performance of the provisions of the  
10 Medical Practice Act, the Physician Assistant Act, the  
11 Anesthesiologist Assistants Act and the Impaired [~~Physician~~]  
12 Health Care Provider Act and the duties and powers imposed  
13 [~~thereby~~] by those acts; and

14 (2) the promotion of medical education and  
15 standards in this state within the budgetary limits.

16 [~~E.~~] D. All funds [~~which~~] that may have accumulated  
17 to the credit of the board under any previous law shall be  
18 transferred to the New Mexico medical [~~examiners~~] board fund  
19 and shall continue to be available for use by the board in  
20 accordance with the provisions of the Medical Practice Act, the  
21 Physician Assistant Act, the Anesthesiologist Assistants Act  
22 and the Impaired [~~Physician~~] Health Care Provider Act. All  
23 money unused at the end of the fiscal year shall not revert,  
24 but shall remain in the [~~medical-examiners~~] fund for use in  
25 accordance with the provisions of the Medical Practice Act, the

1 Physician Assistant Act, the Anesthesiologist Assistants Act  
 2 and the Impaired ~~[Physician]~~ Health Care Provider Act.

3 ~~[F. The secretary-treasurer and any employee of the~~  
 4 ~~board who handles money or who certifies the receipt or~~  
 5 ~~disbursal of money received by the board shall, within thirty~~  
 6 ~~days after election or employment by the board, execute a bond~~  
 7 ~~in accordance with the provisions of the Surety Bond Act~~  
 8 ~~conditioned on the faithful performance of the duties of the~~  
 9 ~~office or position and on an accounting of all funds coming~~  
 10 ~~into his hands.]"~~

11 Section 27. Section 61-6-33 NMSA 1978 (being Laws 1989,  
 12 Chapter 269, Section 29, as amended) is amended to read:

13 "61-6-33. LICENSURE STATUS. -- Upon a verified written  
 14 request, ~~[any practitioner licensed under the Medical Practice~~  
 15 ~~Act]~~ a licensee may request ~~[his]~~ that the license be put in  
 16 retirement, inactive or voluntary lapsed status. Upon request  
 17 for reinstatement of active status, the board may impose  
 18 conditions as provided in Section 61-6-30 NMSA 1978. "

19 Section 28. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,  
 20 PROPERTY, CONTRACTS AND REFERENCES IN LAW. -- On July 1, 2003:

21 A. all functions, personnel, appropriations, money,  
 22 records, equipment, supplies and other property of the New  
 23 Mexico board of medical examiners shall be transferred to the  
 24 New Mexico medical board;

25 B. all contracts of the New Mexico board of medical

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1 examiners shall be binding and effective on the New Mexico  
2 medical board; and

3 C. all references in law to the New Mexico board of  
4 medical examiners shall be deemed to be references to the New  
5 Mexico medical board.

6 Section 29. REPEAL. -- Sections 61-6-8, 61-6-8.1, 61-6-10.8  
7 and 61-6-29 NMSA 1978 (being Laws 1973, Chapter 361, Section 4,  
8 Laws 1997, Chapter 187, Section 6, Laws 2001, Chapter 311,  
9 Section 8 and Laws 1989, Chapter 269, Section 25, as amended)  
10 are repealed.